

January 7, 2005

Mr. Gary Spackman  
Water Allocations Bureau Chief  
Idaho Department of Water Resources  
PO Box 83720  
Boise, ID 83720-0098

Via E-Mail

Re: Draft Mitigation Plan for Basin 34 Water Users

Dear Gary:

Attached is a draft Mitigation Plan prepared for the Basin 34 Water Users pursuant to Rule 50 of the Water District 34 Water Distribution Rules (IDAPA 37.03.12). I have been asked to submit this on behalf of Loy Pehrson and the organization known as the Basin 34 Water Users.

I understand you will be meeting with the water users on January 11, 2005 and this group of water users wanted you to have an opportunity to review this draft prior to the meeting. If you have technical questions about the draft, please free to call me at 373-7983 prior to the meeting and I will try to answer those questions for you.

Please excuse the informal communication but we wanted you to have as much time as possible to review this information before the meeting. Thank you in advance for your consideration.

Yours truly,  
/s/  
David B Shaw

Enc.

cc: Basin 34 Water Users

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### 2005 Mitigation Plan for the Basin 34 Water Users<sup>1</sup> January 7, 2005

This mitigation plan is proposed pursuant to Rule 50 of the Water District 34 Water Distribution Rules (IDAPA 37.03.12) for those junior ground water users whose ground water rights are administered conjunctively as part of the Big Lost River and tributaries. These rules provide that junior ground water users can continue to divert ground water when mitigation is provided to senior water rights pursuant to Rule 50.04. This plan is intended to meet the requirements of Rule 50.04 by providing 6,110 ac-ft of water to the Watermaster to augment the natural flow of the Big Lost River.

The Basin 34 Water Users (Water Users) understand the purpose of mitigation is to augment the natural flow of the Big Lost River downstream from Mackay Dam. Mitigation does not guarantee any particular water right will receive a full water supply in any year.

The Water Users propose to use impounded water stored in Mackay Reservoir as the source of mitigation water to be turned over to the Watermaster. This impounded water will be delivered by the Watermaster to augment the flow of the Big Lost River below Mackay Dam, which does not violate the limitation of stored water use outside the Big Lost River Irrigation District boundary. Water Users who are members of the Big Lost River Irrigation District and have access to impounded water may join the group, the Stored Water Users, and make available the impounded water in Mackay Reservoir required for mitigation. Stored Water Users members may be any water user with access to stored water in Mackay Reservoir that wishes to participate in this mitigation plan.

Water Users who wish to receive the benefit of mitigation to allow the use of their ground water rights will contract with the Stored Water Users for the value of the mitigation water needed. Each member of the Water Users seeking mitigation for one or more ground water rights will determine the amount of ground water diverted under each of their ground water right(s) the prior year. The Water Users will allocate to each member seeking mitigation the fraction of the total mitigation requirement for each water right at the same fraction as the diversion last year for that water right to the total ground water diversion by conjunctively administered water rights for the last year as determined by the Watermaster. The Water Users can make adjustments to the allocation of mitigation requirement for good cause to ensure equity among its members and with the Stored Water Users. The Stored Water Users and the Water Users will jointly set the contract cost to the Water Users members for the members' ground water rights covered by the mitigation water in this plan. Full payment by the Water User

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<sup>1</sup> Basin 34 Water Users is a group of water users in Basin 34 that have organized themselves to more efficiently address conjunctive management and other water distribution and use issues in the Big Lost River basin. This plan is prepared under the direction of this group for the benefit of the members of the group but with the objective of making the plan acceptable and accessible to all ground water users whose rights are conjunctively managed in the basin.

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member is required before the water right(s) for that ground water user is covered under this mitigation plan. The Water Users will keep the Watermaster informed in writing of the members and their water rights covered by this mitigation plan.

The Water Users understanding of the implementation of mitigation through flow augmentation is as illustrated by the following example. The Stored Water Users have committed 6,110 ac-ft of impounded water for mitigation and turned the use of that water over to the Watermaster for mitigation purposes. Mitigation will only occur during the period May 1 through October 15 of any year and then only for water rights from the Big Lost River downstream from Mackay Dam with priority dates of 1905 and earlier. For purposes of this example, assume all 1905 water rights are being filled through June 5. If mitigation has been called for, on June 6 the Watermaster determines there are 132 days remaining in the mitigation period (June 6 through October 15). Rule 50.04.c.i provides  $\frac{1}{3}$  of the mitigation water will be available to augment natural flow for the first half of the augmentation period and the remaining  $\frac{2}{3}$  of the mitigation water will be available to augment natural flow for the second half of the augmentation period. Based upon this example, the first half augmentation rate is:

$$Q = \frac{6,110}{3 \times 66 \times 1.9835} = 15.56 \text{ cfs}$$

That is,  $\frac{1}{3}$  of 6,110 ac-ft delivered in  $\frac{1}{2}$  of 132 days. The second half augmentation rate is twice that of the first half since it is computed as  $\frac{2}{3}$  of 6,110 ac-ft delivered in the second half of the augmentation period or 31.12 cfs.

According to Rule 50.04.c.ii, if a water user calling for mitigation could make use of the computed augmentation amount, the Watermaster will make delivery up to the amount of the water right(s) calling for mitigation or the computed amount of available augmentation, whichever is less.

It is the Water Users expectation and belief that mitigation water will not be used to augment the natural flow of the Big Lost River unless doing so will make water available to a senior surface water user calling for mitigation. If a portion of the mitigation period passes (June 6 through October 15 in the example above) and mitigation water is not required to be released because it would not benefit a water user calling for mitigation, the proportionate amount of impounded water being held for mitigation will be released by the Watermaster for use by the Stored Water Users who committed that impounded water for mitigation purposes. The Water Users expect adjustments in the required amount of mitigation water will be made at reasonable intervals by the Watermaster but in no event will the adjustment period be longer than 15 days.

Impounded water for mitigation is water accumulated in Mackay Reservoir for the Stored Water Users in the same manner as other members of the BLRID. This includes impounded water accumulated by rotation credits for natural flow decreed water rights as recognized in the SRBA Decree and the Rules.

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River flush water as contemplated by Rule 40.02.d.iii will also be considered recharge for mitigation purposes if the flush water is provided from the 6,110 ac-ft of impounded mitigation water or if the water used for the river flush is paid for by the Stored Water Users. All river flush water not delivered to field headgates for the first three (3) days after releasing the flush from Mackay Dam will be considered recharge mitigation and will reduce the 6,110 ac-ft mitigation obligation on an acre-foot for acre-foot basis applicable to the augmentation component for the first half of the mitigation period.

The Water Users understand acceptance of this mitigation plan includes distribution of the mitigation water by the Watermaster as illustrated in the example above, except, any river flush credited to mitigation will be deducted from the first half of the mitigation period water supply requirement. The Watermaster will also recognize above the Mackay Reservoir Water Users contributions of water for mitigation from decreed water rights and will credit that contribution to the block of 6,110 ac-ft of impounded water for mitigation. This plan does not preclude individual ground water users or other groups of ground water users from offering their own mitigation plans. The mitigation requirement of 6,110 ac-ft for this plan will be reduced by the amount of mitigation water provided in all other approved mitigation plans combined.

The Water Users expect IDWR and the Watermaster to administer ground water rights such that those conjunctively administered water rights not covered by this mitigation plan or covered by another approved mitigation plan shall not be allowed to divert during the remainder of the 2005 irrigation season after a call for mitigation is placed in the basin.

A more complete plan for crediting managed recharge for mitigation purposes may be developed after this plan for 2005 is completed. Water conditions at the present time make it unlikely managed recharge will occur this year and additional time to develop the recharge portion of the plan will improve the quality and expected success of the plan. If it appears managed recharge, other than the river flush, will occur in 2005, a 2005 recharge mitigation plan will be prepared focused on the 2005 conditions.